

# Changing Landscape: Federal HCBS Waiver Policies and Expectations

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Robin Cooper - NASDDDS  
Gary Smith - HSRI

# Topics

- CMS Policy Directions – Big Picture
- Policy Directions & HCBS Waivers
- Payment Policies

# CMS Policy Directions

- Rebalance long-term care systems by expanding HCBS (through waiver and other options)
- Money Follows the Person
- Major emphasis: Self-Direction
- Heightened expectations: Quality Management and Quality Improvement

# CMS Policy Directions (2)

- Clarify policies
- Reduce inter-regional variations in policy interpretation
- Greater scrutiny:
  - Scope of services (are claims based on allowable activities?)
  - Do payments pass the “economy and efficiency” test?
  - State “creative financing” schemes

# Themes

- Do good
- Get better
- But follow the rules!!!!

# Policy Directions & HCBS Waivers

- CMS is actively encouraging states to take maximum advantage of HCBS waiver authority
- Pouring technical assistance resources into expanding self-direction opportunities
- Federal waiver oversight: restructured to emphasize state quality management responsibilities and stress quality improvement

# Revised HCBS Waiver Application

- New application issued in 2005, revised in 2006, and due for third revision in November 2007
- Major changes –
  - States must describe in far greater detail how the waiver operates
  - Major emphasis on quality management
  - Clear pathways for implementing self-direction

# New application ...

- CMS vehicle for clarifying policies that apply to the operation of HCBS waivers
- Vehicle for achieving uniform policy interpretation/application across regions
- Key document: Accompanying Instructions and Technical Guide – Available at:  
[http://www.cms.hhs.gov/HCBS/02\\_QualityToolkit.asp](http://www.cms.hhs.gov/HCBS/02_QualityToolkit.asp)



# Impact of New Application

- Rapid growth in the number of states that offer self-direction opportunities for waiver participants of all types
- Caused many states to take a new look at the basic design of their waivers
- Prompted states to adopt more global approach to quality management with greater emphasis on data collection

# Impact (2)

- Exposed real problems in the basic waiver design like:
  - Improper state delegation of authority to localities
  - Unequal treatment of individuals in a waiver
  - Unnecessary restrictions on the entry of new providers
  - Improper payment policies and practices

# Impact (3)

- As states renew waivers, CMS is working with them to bring waivers into compliance
- **Truth: *What was approved in the past may not be approved going forward***
- **Truth: *How some states operate their waivers does not comply with current CMS policies***

# **Federal Payment Policies**

- There are no special federal rules or exceptions concerning payments for waiver services
- Fundamental federal payment rules apply to waiver services
- With respect to payments, waiver services are no different than any other Medicaid services

# Medicaid Fee-for-Service Mantra

- Payments can only be made for discrete services furnished to an eligible Medicaid beneficiary
  - Provided that the service itself is covered
  - Provided that the claim is backed up by documentation that an allowable activity was performed
- Payments must be unit-based
- Claims must be specific to person and date

# HCBS Waiver Considerations

- Payments cannot be made in the absence of the provision of a service – absent days cannot be directly compensated
- Absences can be taken into account in setting a rate
- Payments cannot be made for room and board expenses
- Payments made be made for services performed on behalf of a beneficiary – payment is not necessarily limited to face-to-face services

# Rate Determination

- CMS does not dictate the precise rate-setting methodology that a state must employ
- CMS does dictate that a uniform method be employed to determine rates for each service – i.e., providers are treated equally
- Increasingly, CMS is reviewing payments for waiver services to ensure that they pass the economy and efficiency test

# No – No's

- Letting localities set rates any which way
- Paying different amounts for the same service without a rationale
- Packaging up payments for multiple services into a single rate (bundling)
- Paying for services in big clumps (e.g., by the month)
- Not having a cost-basis for payments